



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CrowdPAC

Attn: Jonathan Zucker, Esq.
555 Bryant Street, #942
Palo Alto, CA 94301

MAR 13 2017

RE: MUR 7082

Dear Mr. Zucker:

On June 14, 2016, the Federal Election Commission notified CrowdPAC of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On March 7, 2017, the Commission found, on the basis of the information in the complaint and the response submitted by you, that there is no reason to believe CrowdPAC violated 52 U.S.C §§ 30124(b) and 30120. Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016), effective September 1, 2016. The Factual and Legal Analysis, which explains the Commission's finding, is enclosed for your information.

If you have any questions, please contact Cheryl Hemsley, the attorney assigned to this matter at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynn Tran", is written over a horizontal line.

Lynn Tran
Assistant General Counsel

Enclosure
Factual and Legal Analysis

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1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 RESPONDENT: Crowdpac

MUR: 7082

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5 **I. INTRODUCTION**

6 In 2014, Crowdpac, Inc. ("Crowdpac") launched a web-based contribution platform that
7 allows users to make contributions to political candidates through its website which features a
8 dedicated page to each federal candidate registered with the Commission. Complainant, a 2016
9 congressional candidate, alleges that Crowdpac fraudulently solicited contributions on her behalf
10 by using her image on its website without her authorization, and by failing to include a
11 disclaimer stating who is making the solicitation. Crowdpac proposed this activity in an advisory
12 opinion request in 2014, and the Commission opined the activity complied with the Act in
13 Advisory Opinion 2014-07. Because the Complaint does not establish that Crowdpac acted
14 outside the terms of that advisory opinion (Advisory Opinion 2014-07), the Commissions finds
15 there is no reason to believe Crowdpac violated 52 U.S.C. §§ 30124(b) and 30120.

16 **II. FACTUAL BACKGROUND**

17 Crowdpac is a for-profit corporation incorporated in Delaware and based in California.
18 Crowdpac describes itself as an independent and non-partisan "platform for political
19 participation" whose mission is to "give politics back to people - to make it easier for citizens to
20 learn about politicians, run for office, and to find and support political candidates that match
21 their priorities and beliefs."¹ To further its mission, Crowdpac includes on its website an
22 individual page dedicated to each candidate who registers an authorized committee with the

¹ <https://www.crowdpac.com/about>.

1 Commission.² These pages include publicly available information about the candidate, such as
2 office sought, biographical details, and a photo, as well as information about the candidate's
3 political positions.³ Each candidate page also contains a "donate" button allowing users to make
4 contributions to the candidate.⁴ When a contribution is made through the Crowdpac site, its
5 processing partner, Democracy Engine, sends the contribution directly to the campaign and
6 includes the donor information needed for disclosure purposes.⁵

7 In 2014, prior to launching its web-based platform, Crowdpac requested an advisory
8 opinion from the Commission to "seek[] confirmation that it can implement each component of
9 its business plan as described in this request in compliance with the requirements of the Act and
10 Commission regulations."⁶ The request specifically described the individual candidate
11 webpages, including the donate button and contributions mechanism, and the disclaimers that it
12 intended to include. On August 14, 2014, the Commission responded by issuing Advisory
13 Opinion 2014-07 which concluded, *inter alia*, that Crowdpac's proposal would not result in
14 impermissible contributions to candidate committees. Crowdpac launched its platform following
15 the issuance of Advisory Opinion 2014-07.

² Advisory Opinion 2014-07 (Crowdpac) at 2.

³ *Id.*

⁴ *Id.* at 3.

⁵ *Id.* See Advisory Opinion 2011-06 (Democracy Engine, *et al.*), in which the Commission approved for-profit, limited liability company Democracy Engine's web-based payment services for individual subscribers to make contributions to federal political committees.

⁶ Advisory Opinion Request 2014-07 (June 9, 2014) at 12.

1 During the 2016 election, the Crowdpac website included an individual page regarding
2 Complainant Wendy Reed, a candidate for Congress in California's 23rd Congressional District.
3 As with all of the candidate webpages, the Reed page contained a picture of the candidate,
4 information about her and her candidacy, and a "Donate to Wendy" button allowing users to
5 make contributions directly to her campaign. According to Crowdpac, no users of its web
6 platform used the link on the Reed candidate page to make a contribution to her campaign.⁷
7 Crowdpac states that Reed requested that Crowdpac disable contributions to her and that it
8 honored her request.⁸

9 **III. LEGAL ANALYSIS**

10 Reed alleges that Crowdpac violated the Federal Election Campaign Act of 1971, as
11 amended ("the Act"), by using her image to "solicit donations in [her] name without [her]
12 authorization or permission and without the legally required disclosures of who is making the
13 solicitation" when it created a page dedicated to her candidacy on its website.⁹ Crowdpac
14 responds that it has "explicit permission from the Federal Election Commission" in the form of
15 Advisory Opinion 2014-07, to engage in the behavior about which Reed complains, and that the

⁷ Crowdpac Resp. (July 19, 2014) at 3.

⁸ *Id.*

⁹ Compl. at 1; see 52 U.S.C. §§ 30124(b), 30120. Reed also notes, without alleging any specific violation of the Act, that the webpage referenced an election in San Diego, which is outside of her congressional district. *Id.* Crowdpac responds that Reed's congressional district was clearly stated under her name on the page and explains that the reference to San Diego on the webpage was merely a banner ad running at the top of the pages for all California candidates at that time. Resp. at 2.

1 Act and Commission regulations requiring disclaimers do not apply in its situation.¹⁰ Though
2 Reed acknowledges the advisory opinion, she asserts that “individuals involved in Crowdpac’s
3 management” violated the terms of the advisory opinion when Crowdpac’s founder was involved
4 in creating and disseminating a mailer in a local election in Montana in 2014 that was criticized
5 for misleading voters by including Montana’s state seal.¹¹ Reed requests a formal investigation
6 to determine whether contributions received by Crowdpac are being distributed to the designated
7 candidates.¹²

8 The Act states that an advisory opinion “rendered by the Commission . . . may be relied
9 upon by . . . any person involved in the specific transaction or activity with respect to which such
10 advisory opinion is rendered.”¹³ The Act further states that any person who relies on and acts in
11 good faith in accordance with the advisory opinion “shall not, as a result of any such act, be
12 subject to any sanction provided by the [the Act].”¹⁴

13 In Advisory Opinion 2014-07, the Commission informed Crowdpac that it “may provide
14 its services of matching users with candidates and utilizing the Democracy Engine platform to
15 process and forward users’ contributions to candidates,” specifically concluding that the proposal

¹⁰ Resp. at 2.

¹¹ Compl. at 2.

¹² *Id.*

¹³ 52 U.S.C. § 30108(c)(1)(A), 11 C.F.R. § 112.5(a)(1).

¹⁴ 52 U.S.C. § 30108(c)(2), 11 C.F.R. § 112.5(b).

1 would not result in impermissible contributions to federal candidate committees.¹⁵ Reed's
2 complaint seems to allege that Crowdpac's contribution platform results in the fraudulent
3 solicitation of funds, and violates the Act's disclaimer requirements.¹⁶ The basis of Reed's
4 complaint, however, concerns the specific activity approved by the Commission in Advisory
5 Opinion 2014-07. Reed's allegations focus primarily on the presence of her candidate page
6 (including her image) on Crowdpac's web platform and the processing of contributions, which is
7 the proposal specifically approved in the advisory opinion. Further, Crowdpac was not required
8 to include disclaimers on its candidate pages.¹⁷ And, though Reed alleges that Crowdpac
9 deviated from the approved plan, it appears that the allegation is based on activity that was not
10 conducted by Crowdpac.¹⁸ Based on the information available to the Commission, it does not
11 appear that the activity complained of deviates from the specific transaction or activity with
12 respect to which Advisory Opinion 2014-07 was rendered by the Commission.¹⁹

¹⁵ Advisory Opinion 2014-07 at 5.

¹⁶ See 52 U.S.C. §§ 30120 and 30124(b).

¹⁷ See 52 U.S.C. § 30120 (requiring disclaimer on certain public communications and electioneering communications); 11 C.F.R. § 100.26 (excluding internet communications from the definition of public communication, except when placed for a fee on another person's website.); 100.29 (defining electioneering communications as broadcast, cable, or satellite communications).

¹⁸ The complaint references a news article about an official-looking voter guide mailer sent by researchers at Stanford University and Dartmouth College to voters in multiple states as part of a research study on voter turnout. Compl. at 2, citing <http://www.mercurynews.com/2014/10/29/stanford-dartmouth-sidestep-legal-action-against-researchers-election>. The guides included official looking seals and ranked nonpartisan candidates on a political spectrum based on donations to their campaigns. *Id.* Although one of Crowdpac's co-founders, Adam Bonica, was a Stanford professor who was part of the research project, both Stanford and Crowdpac confirmed that the research project was separate from the work of Crowdpac. *Id.*

¹⁹ See 52 U.S.C. § 30108(c)(1)(A), 11 C.F.R. § 112.5(a)(1).

1 Reed also provides no specific information that the contributions processed through the
2 Crowdpac website are not being provided to the designated recipient candidates. Crowdpac
3 specifically notes that Reed received no contributions through Crowdpac because no Crowdpac
4 users made contributions to Reed through her candidate page prior to Crowdpac disabling the
5 contribution function on Reed's page. Accordingly, the available information provides no basis
6 to commence the investigation requested by Reed. Therefore, the Commission finds no reason
7 to believe that Crowdpac violated 52 U.S.C. §§ 30124(b) and 30120.